July 28, 2016

Proposed Meeting Notes

Has not been approved by the Committee

Orange County Firearms Safety Committee

Wednesday, July 20, 2016

John M. Link, Jr. Government Services Center, downstairs meeting room

200 South Cameron Street, Hillsborough

Attendees

- Committee members appointed by the Board of Commissioners: Jon Arvik, Roxanne Barksdale, Sara Conti, Jack Hunnell, Keith Kirkland, Vince Tesoro, Greg Tilley, and Keith Webster.
- Liaison to the Board of Commissioner: Commissioner Earl McKee
- Resource persons designated by the Board of Commissioners: Craig Bennedict and Michael Harvey, Orange County Planning Department; Travis Myren, Deputy County Manager; Forrest Orr, Wildlife Officer, NC Wildlife Resources Commission; John L. Roberts, Orange County Attorney; Jamie Sykes, Chief Deputy, Orange County Sheriff's Office.
- Facilitator: Andy Sachs, Dispute Settlement Center.
- There were approximately 3 observers.

Convening

After introductions, the Committee adopted the proposed desired outcomes and agenda for the meeting that had been distributed earlier.

The Committee adopted the proposed notes on the June 20, 2016 meeting, and gave the facilitator permission to make further minor (i.e., spelling, proper names) corrections to those notes.

The Committee agreed that it will not ask the County to support remote participation for Committee members. Initiating the discussion that led to that decision, Mr. Kirkland said he did not want to spend too much time discussing the matter, given the limited time left in the Committee process (the goal is to complete the work before Thanksgiving). He said he did not think technical support for remote participation is needed because an absent Committee member can catch up easily from the meeting notes and by email and cell phone consults with members who were present.

Mr. Hunnel said his proposal at the previous meeting to allow for remote participation was based on his interest in accommodating Committee members' business and summer vacation travel. I'm going to try to be here for every meeting, he said, but what if one of us cannot attend a meeting? Mr. Tilley reminded the group that the Committee adopted a quorum rule that allows the Committee to make decisions if at least six members are present. If this issue is important enough for you to be on this Committee then you need to be here, Mr. Tilley said. Ms. Barksdale agreed.

Mr. Tilley added that if an absent member were taken away by important business then it would be unlikely for the member to be able to participate remotely anyway. Mr. Hunnel said there could be instances – for example accompanying someone to the hospital -- where a person could be away but still able to listen to the meeting remotely if such access were supported. Mr. Tesoro said he could be called out of town for business after a meeting date is set, be done with his business by 7pm, and then be available to participate remotely. Wouldn't others want to listen-in if they were in that situation, he asked. Mr. Webster, a police officer, said he would not be able to listen to the Committee meeting if he were called into work after a Committee meeting time is set.

Mr. Webster added that he is open either way on the question, but doesn't think remote access should be supported. I could keep up with everything that I missed from the meeting notes, he said. Dr. Arvik said the meeting notes are distributed quickly, providing plenty of time for an absent member to respond to matters via email with other members before the next meeting. Mr. Hunnel said remote access would allow the absent member to express an opinion in real time, and so help the Committee to avoid a tangent that would have to be corrected at the next meeting.

Ms. Barksdale said if remote participation were not supported then absent members should be allowed to express their opinion via email and/or at the next meeting on matters that they had missed. Dr. Arvik said he did not want the Committee or County to make great efforts at trying to satisfy someone who had committed to participating but then could not be present. Mr. Hunnel said the process was progressing rapidly and perhaps will not require more than two more meetings, lessening the number of times that members might need support for remote access. I've seen remote participation supported in other contexts, he said, but if it is too complicated in this context and we can all agree on future meeting dates then perhaps the support is not needed for this Committee. Ms. Conti said she did not think it necessary to go to great lengths to support remote access. The notes are great, she said, and I don't see anything that would be lost by not being

able to participate remotely. Mr. Hunnel said he would have been disappointed if he had been absent and unable to hear Chief Sykes's and Officer Orr's presentations. But we're probably not going to get more of those kinds of presentations, he said, so I'm OK not asking the County to support remote access. Mr. Tesoro, after hearing the full discussion, said he was "all good" with not asking the County to support remote access. Mr. Tilley said important decisions could be postponed to a later meeting if a person were absent. Let's try to make sure we make the big decisions when all eight of us are here, he said.

What is working well and what is not?

The group heard and discussed briefings from three resource persons: Forrest Orr, Wildlife Officer, NC Wildlife Commission; Michael Harvey, Current Planning Supervisor, Orange County Planning Department; and Jamie Sykes, Chief Deputy, Orange County Sheriff's Office.

Officer Orr introduced himself. He has been a Wildlife Officer for 12 years, has worked across the state, and has been stationed in Orange County since December 2007. In this role, he teaches 10-12 hunter safety classes per year in Orange County for about 15-20 students per class. Everyone has to participate in a hunter safety class before they can procure a hunting license. Firearms handling and familiarization is part of the class: students handle 5-6 different action types. Most hunters who have had this class hunt safely and are familiar at least with the repercussions of their actions if they were to shoot toward a house or other people. Most hunters should have an idea of those safety issues.

In the nine years since I have been stationed in Orange County, he said, there have been three hunting related accidents reported to the NC Wildlife Commission involving firearms, none of which were fatal. There may have been other incidents, but no more than three have been reported to the Commission. The most severe incident involved damage to a person's face from a shotgun. Another was a self-inflicted injury to the hunter's foot. The other resulted in shotgun pellets damaging a house.

Officer Orr said the state Sunday Hunting Law is the only restriction related to noise and to when and how far from structures a person is allowed to hunt. It prohibits hunting with a firearm on Sundays between 9:30 am and 12:30 pm, and prohibits hunting with a firearm the entire day on Sundays within 500 yards of places of worship or someone else's residence.

In reply to questions from Committee members, Officer Orr added:

- Every county in the state requires hunting safety classes and offers at least one such class per month from about August through November.
- Written permission to hunt from the property owner does not overrule the prohibition against hunting with a firearm on Sundays within 500 yards of someone else's residence or places of worship.
- Intoxicated hunting on public game lands is prohibited. The only public game land in Orange County is the 500 acres off of Buckhorn Road. It is not illegal to hunt intoxicated on private land.
- The NC Wildlife Commission has no jurisdiction over shooting ranges.
- Rifles, shotguns, pistols are the types of firearms that may be used to hunt in North Carolina; fully automatic weapons for hunting is prohibited. There is no caliber size restriction.
- There is no magazine restriction, except for hunting migratory game birds (e.g., doves, ducks, and geese).
- The purpose of the Sunday Hunting Law, in Officer Orr's opinion, is to control noise, not to afford safety to people congregating at churches.
- Medical facilities are required to report firearms-related injuries to law enforcement authorities, but not to the NC Wildlife Commission.

Mr. Tilley observed that there does not appear to be a safety issue related to hunting in Orange County. The hunting safety courses appear to be working well, he said. Mr. Hunnel agreed, adding that there is a *perceived* safety issue sometimes when people hear gunfire but usually not an *actual* safety issue. This can be addressed, he said, by someone going over and checking out the source of the gunfire.

Michael Harvey, Current Planning Supervisor, Orange County Planning Department, introduced himself. He is responsible for the administration and enforcement of the County's land use management program, which includes zoning enforcement, subdivision enforcement, and administration.

He explained that the Department had recently completed a comprehensive process to amend the definition of "recreational facility," including clarification of what constitutes "commercial activity" for such a facility. Previous regulatory standards for this were inconclusive. They also relied on the operation's tax status (whether the applicant was for-profit or non-profit) to determine whether a permit would be required to operate a commercial facility. That is not a viable methodology for making that determination, he said.

We included commercial shooting ranges in our amendment process, those that are open to the public and receive compensation, he said, as a means of establishing minimum basic criteria for setbacks and buffers for indoor and outdoor ranges. As part of that process, we were tasked to look at the need to develop regulatory standards for the discharge of firearms on private shooting ranges. In looking to develop those standards, it was determined that we weren't going to make everybody happy. There had been several court cases essentially stipulating that if a land use is not listed in zoning regulatory standards then the use can go where the applicant wants it to go. There were also court rulings dealing with the regulation of private shooting facilities that we needed to take into consideration when determining what would and would not be permitted in the county. The Board of County Commissioners decided that land use management was not the best way to regulate private ranges; Planning staff agreed. The Board then passed regulations addressing commercial ranges only. To establish a commercial shooting range you have to acquire a Special Use permit. In order to do so, you must appear before the County's Board of Adjustment, and through competent material evidence and sworn testimony prove that you comply with the Code and will be promoting the public health, safety, and general welfare.

From a zoning standpoint, he said, the County does not regulate the discharge of firearms on private property nor does it regulate hunting. There are no mechanisms in the land use component dealing with noise. Planning does not have any regulatory standards nor will we be proposing any that would somehow restrict or otherwise limit the type of firearm that can be discharged. We were mainly looking at setbacks, buffering, and backstop standards for private shooting ranges, and in the end it was determined that such things would best be handled through the Firearms Safety Committee.

In reply to questions from Committee members, Mr. Harvey added:

- There is one commercial shooting range in Orange County. It existed before we established a regulatory standard. It is located near Buckhorn Road.
- There is a private shooting range on Duke Forrest property that is used by law enforcement. It is not regulated by what we have adopted.
- Planning has not had more than one or two complaints about private shooting. Most of our work on this was precipitated by complaints alleging that an individual was operating a commercial range. We initiated an enforcement action but ultimately rescinded it because we did not have sufficient evidence documenting and proving that it was a commercial facility. That determination was appealed to the Board of Adjustment, which then upheld that the County

was within its rights to rescind the notice of violation. We still monitor the situation. If we find evidence of a commercial enterprise – meaning that there is compensation from the general public to use the facility – then the operator would be required to obtain the appropriate permits. We have no regulatory mechanism to require permitting for a private range.

- Planning staff approached the Board of County Commissioners about the need to establish regulations for commercial shooting ranges in the course of its work revising the "recreational facility" standards. At the same point in time there was discussion about the need to provide some direction or provide the Commissioners with options about how to regulate private shooting ranges to address public concerns over noise, safety, and what not. We attempted to provide those regulations, and it was determined that the land use mechanism was not the appropriate way to do that. The determination by the elected officials was that the land use component was appropriate to address commercial standards only. One consideration is that Planning staff is available only between the hours of 8:00 am to 5:00 pm.

Craig Benedict, Planning Director, addressed the Committee alongside Mr. Harvey. He said over the past 15 years there have been complaints about recreational uses of land which hinged on whether the activity was commercial or private. Those complaints have involved go-kart tracks, motor cross, softball fields, and soccer facilities. Shooting ranges also were considered recreational uses. We found that our regulations were not strong enough to be able to make the distinction between commercial and private recreational activities. We now have more specific rules about commercial vs. private recreational operations, and have the clarity that Planning will handle only the commercial operations. With regard to the commercial operations, the question for us is whether the enjoyment of a piece of property is impinging upon others. Is there noise, dust, glare, or traffic issues, for example. Our rules on commercial shooting ranges address these matters through requirements on the distance from neighbors and setbacks. We do not address types of firearms or safety. Our earlier efforts to generate regulations were not focused on shooting ranges *per se;* they were focused on the larger category of recreational land uses in which shooting ranges are included.

In reply to additional questions from Committee members, Mr. Harvey said:

- Applications for a Special Use Permit to open a new commercial shooting range would go to the Planning Department. The Department would require a land use survey. There are certain zoning districts in which recreation facilities are allowed. The applicant would go before the Board of Adjustment for a public hearing, which would be advertised and noticed so that adjacent property

owners would have the opportunity to express their support or displeasure to the Board. Special Use Permits are only granted if there is evidence entered into the record that the applicant conforms to accepted and adopted County policy. If there is no evidence proving that the applicant has not met its burden then the permit has to be issued.

- The Special Use Permit regulations for commercial shooting ranges are different for indoor and outdoor facilities. For indoor facilities, the setback is 100 feet. For outdoor facilities, the setback is 300 feet. There also are buffer and parking requirements. There also are regulatory standards for the height and width of the berm.
- The regulations have existed for six months, and in that time there have been no applications for new commercial shooting ranges. In Mr. Harvey's twelve years with the County there have been no applications for new commercial ranges.

Jamie Sykes, Chief Deputy, Orange County Sheriff's Office, briefed the group on law enforcement training and on injury and property damage statistics that were requested at the Committee's June 20 meeting. Since the June meeting he inquired with the NC Justice Academy, the Training Coordinator within the Sheriff's Office, and state law enforcement training coordinators. He learned that there is no standardized training for law enforcement officers on assessing whether someone is shooting in a safe manner. Mr. Webster, who is serving on the Committee as an Orange County resident and not in his capacity as a Carrboro police officer, corroborated Mr. Sykes's finding.

There is training on the design, construction and implementation of ranges, said Chief Sykes. The main ones are offered by the National Rifle Association. The US Department of Energy has a training course that is offered in Reno, Nevada. These courses do not address the issues raised within this Committee about how the Sheriff's Office responds to 9-1-1 calls about gunfire.

Chief Sykes researched data back to 2013 that is available at the Sheriff's Office on gunshots, gun-related 9-1-1 calls, personal injury, damage to property, and anything involving a gun. There was a lot of data, but much of it does not meet the interests of this Committee, for example reports involving pellet guns, vandalism, and criminal activity. Chief Sykes found no gun-related fatalities and no gun-related personal injuries in the data. In 2013 there was one report of an improper backstop leading to property damage. In that case the damage was valued at less than $100 and the two neighbors (there was a young person involved) resolved the matter through conversation; no criminal charges were filed. In 2014 there were no

incidents. In 2015 there was one report, related to skeet shooting. The shooting was taking place on a 46-acre lot. Pellets were found at a residence but no damage was assessed. In 2016 so far there has been one incident, reported in March. Light bird shot had damaged vinyl siding over a period from November 2015 to March 2016; monetary damage was assessed at $100.

In reply to questions from Committee members, Deputy Sykes added:

- He has asked Captain Walker, Commander of Patrol with the Sheriff's Office, to look into the incident Dr. Arvik described at the June 20 Committee meeting. Deputy Sykes said he does not know what Captain Walker has found.
- "Neighbor to neighbor" conversation does not work all the time. This was in reply to Dr. Arvik's saying that a "neighbor to neighbor" conversation would not have been appropriate in his situation because the two parties did not already know each other (the neighbor is a business and not a fellow resident) and the Sheriff's Community Watch program advises that residents call 9-1-1 when they see a problem instead of confronting persons.
- The Sheriff's Office is limited about what it can do to stop a clearly unsafe shooter on private property who has not caused property damage or injury. In reply to a question, Officer Orr added that a similar limitation exists under the North Carolina hunting laws. There are statutes addressing negligent hunting, but no statutes authorize Wildlife Officers to act until someone damages property or injures a person.
- There are statutes to address situations *after* harm has occurred, whether the harm is physical, property damage, or monetary loss. The criminal charge against a shooter who hits another person would depend upon the injury. Law enforcement in consultation with the District Attorney must choose the statute and the charge to fit the situation. If an injury occurs from gunfire, for example the charge might be assault with a deadly weapon. If a fatality occurs, there are different levels of a homicide charge depending on the shooter's disregard for the safety of others. First degree murder is a charge for when a person intends to kill the other. Second degree is for when a person is negligent.
- The Lenoir County ordinance if adopted here would give the Orange County Sheriff's Office authority to act in situations where a projectile has left a shooter's property. If it were adopted in Orange County, then a deputy could act to stop someone shooting [in the language of the ordinance] "carelessly or heedlessly in wanton disregard for the safety of others," especially if a specific timeframe can be determined in which the shooting took place, someone sees the shooting, and there has been property damage or injury as a result of the shooting.

Committee Discussion/Decision

Mr. Kirkland said it appears there is no such thing as an "almost" charge or situation: either a projectile has hit a house or it has not. Ms. Barksdale added that all the enforcement tools currently in effect for Orange County are for the past tense. Mr. Hunnel said it's like bank robbery: you can't be charged if you are thinking about robbing the bank, only if you actually do so.

Mr. Tilley asked to be reminded about the statistics on 9-1-1 complaints about sustained gunfire. Chief Sykes said that at the June meeting he had presented these numbers for cases in which the shooter had been identified and the situation was determined to be safe: 2012 (60 calls), 2013 (47 calls), 2014 (44), 2015 (28), and 2016 to date (5). Where the shooter was identified and the situation was determined to be unsafe shooting: 2012 (8), 2013 (6), 2014 (2), 2015 (1), and 2016 to date (1).

Dr. Arvik recounted the situation he described at the Committee's June meeting. The first trooper did not have the enforcement tools to stop a clearly unsafe shooter, he said. We should find a way to give the Sheriff's Office the tools to stop somebody who is shooting unsafely so that a real evaluation of the situation can be made before an injury occurs.

Mr. Tilley said if a local ordinance is not consistent with state law then the local charge would not hold up in court. Chief Sykes explained that each county in North Carolina has ordinances that are enforced daily by law enforcement. What happens in court depends upon the District Attorney, who prosecutes. We will enforce a local ordinance just like we would a state statute. He reminded the group that there is no state law against hunting and drinking, but there is an Orange County ordinance against it.

Mr. Tilley said it would useless to recommend an ordinance that would be enforced but not upheld in court. Chief Sykes said any recommendation from the Committee should be common sense, where we can enforce it. It has to be clear cut, easy to interpret, and understandable to people who have to abide by it. The simpler we write the ordinance, he said, the simpler it will be for the average person to know what a violation is, the simpler it will be for the Sheriff's Office to enforce it, the easier it will be for the District Attorney to prosecute it, and hopefully the judge will be able to make a clear determination about whether a violation has occurred.

Officer Orr said Orange County has the authority from the General Assembly to adopt a local ordinance against intoxicated hunting, but that the Board of County Commissioners has not adopted such an ordinance. Mr. Hunnel said everyone probably agrees that anyone discharging a firearm should not be intoxicated. He asked how law enforcement would handle a situation like that. Chief Sykes said the Sheriff's Office would use the tools it has to enforce the ordinance as it is written. Mr. Tesoro said the shooter could be given a breathalyzer, as is done with suspected intoxicated drivers.

Mr. Tilley read a section from the Lenoir Ordinance prohibiting shooting "carelessly or heedlessly in wanton disregard for the safety of others." That covers it all, he said. It is very simple: if you are drinking then that is careless. Ms. Conti said the language of the ordinance is too vague. Officer Orr said ordinances should have specific elements that tell whether someone is in violation. For instance, one law covering Orange County says that you have to have written permission to hunt on someone else's property. That's clear for me an enforcement officer because I can check if someone has written permission or not, he said. If you start putting vague terms into the ordinance then it becomes harder for law enforcement or the prosecution to know if a person has met the elements of the crime.

Mr. Tilley said he is not hearing people in his circles expressing concern about firearms safety. People are talking to me about noise, for example, trying to take a nap on Sunday. Ms. Barksdale said the people she is talking with are expressing safety concerns, especially people living on Davis Road and New Hope Springs Drive. She said one person described to her a situation where a neighbor has a shooting range that parallels a line of other homes with children and pets. And they are anxious. We just learned that we have seven thousand more homes coming into Orange County. We are living closer to each other and this increasing density is a factor in all of this.

At this point, Ms. Conti asked the facilitator if it were acceptable for a member of the public to video record the Committee's proceedings and to post it on social media. The facilitator said he thought it was permitted, but that when County Attorney John Roberts arrived he could provide more definitive advice. Mr. Hunnel asked the facilitator if the person recording needed to acquire consent from each Committee member. The facilitator said if anyone on the Committee was feeling uncomfortable then it was appropriate to express that discomfort, and that they had the option of moving to a seat where their back would be to the camera. Ms. Conti said she felt uncomfortable being video recorded. Mr. Roberts then

arrived and said he knew of no law that prohibits video recording the Committee's proceedings by observers. The group then took a stretch break.

When the group returned from the break it continued its substantive discussion.

Mr. Hunnel said that the real issue is perceived unsafety. For example, there are restrictive covenants in my neighborhood against shooting, he said, but I can shoot on an adjoining property not covered by the covenants. However, my neighbors are concerned when they hear gunshots because they are uncertain about what is going on. Some won't walk along the Eno River because there is private property across the river where people shoot. These are perceptions – the neighbors ad walkers would not actually be in danger -- and I don't know how we address that. Mr. Tilley agreed: based on the statistics presented by Chief Sykes, he said, there is not an actual safety problem.

Relentless noise is another issue, said Mr. Tilley, if Ms. Conti's situation is an example of something we want to address. Ms. Conti said she would "love it" if the Committee could come up with a noise ordinance that was enforceable. But we are not here because I have a problem with a shooting range. I believe we are here because a lot of people have an issue with gun safety in Orange County. The County has changed over the years. There are a lot more people shooting in proximity to one another. They will say they are not being careless or shooting in wanton disregard of their neighbors' safety; they are just shooting like they have always been shooting. I have been living in the county for almost thirty years, and we're living closer to each other now, we're more populous, and it has become more of an issue for more people.

Mr. Webster asked if we are at the point in the discussion where the Committee can say whether or not an ordinance is needed. The facilitator reviewed the flip chart notes he had been taking on the Committee's discussion, noting three possible issues:

- Noise: Relentless shooting creating gunfire noise that is bothersome to neighbors
- Safety: Shooting on private property that is clearly risky – obviously inconsistent with how a responsible shooter should act -- but since no damage, injury or fatality has occurred there are no law enforcement tools to prevent the likely harm.
- Perceptions: Perceptions that shooting is not safe.

Mr. Tilley asked about the current noise ordinance. Mr. Harvey said the County has a noise ordinance enforced by the Sheriff's Department. Chief Sykes said that firearms are exempt from the County's noise ordinance. They are exempt, he said, because there are different kinds of shooting: sustained shooting, 2-3 shots heard at 2:00 AM, 500 shots heard before 10:00. So, gunfire noise is a lot more difficult to measure than, say, a loud party, he said. For a party we can take a reading at the property line, talk with the party hosts, and ask them to turn down the volume. Ninety-nine percent of the time that works. It is rare for us to issue a criminal citation for violation of the noise ordinance.

Mr. Tilley asked if there were a way to somehow tweak the noise ordinance to include gunfire. Chief Sykes said he thinks there is, and that the wording for that should come from the County Attorney.

Mr. Tesoro said one of the "problems" raised during the Committee's June meeting was "blurry line between commercial and private ranges." Now that we have heard from Mr. Harvey, he said, we can eliminate that from our list. There is a distinct definition of a commercial range. There are several ideas from the June list we can eliminate, he said. Dr. Arvik said he did not have enough information to cross "blurry line" from the list. However, he said, I do not think it is the number one problem. The number one problem, Dr. Arvik said, is shooting that is clearly risky but no damage or injury has occurred that would allow law enforcement to act.

Mr. Hunnel said he does not consider shooting that is not causing actual damage to be problematic. We already have a rule on the books against shooting without regard for others, he said. Dr. Arvik said that no such rule exists. Mr. Hunnel said that Officer Orr had referred to such a rule. Dr. Arvik said that Officer Orr's jurisdiction is hunting; no such rule exists apart from hunting. Mr. Hunnel said that the Lenoir County language, which applies to situations apart from hunting, uses language that is vague and unenforceable. Dr. Arvik said we can develop language that is not vague.

Mr. Hunnel is correct, said Dr. Arvik, that perceptions are critical to these issues. There have not been any injuries for a long time. But as density in the county increases then it is possible something will happen. And people are becoming concerned. That's their perception. We have to do something about that. We have to have something that will calm down the distrust of government and shooters. We have a problem in Orange County, because the perception is the reality. There are people who don't understand the difference between gun safety and wanton and careless use of firearms. We've made no effort to teach them other than the ads

on the television, and we don't have a place where someone can go to get that information. If someone is worried about firearms, they are worried about safety first and noise second. If they are worried, then where do they go to get information, or how do you get to them to provide good information? They are not going to come to you to ask you. If they hear gunfire and they are afraid then they are not going to ask the Sheriff's Office to teach them about what is truly safe. They are going to hold on to their perceptions of danger.

Dr. Arvik added that a person who perceives danger from hearing gunfire is going to ask the government to prove that what the shooter is doing is safe. I'm asking for something that will give the Sheriff some teeth to be able to go into a situation that is obviously not safe in the assessment of a trained individual – we don't even have that training – and to do something.

How do we get information out to the public that says, "Here is what we are doing to make it as safe as it can be for you, as the public." What I hear in my 40 years of experience in gun instruction from people unfamiliar with firearms is, "I just don't know." Why don't they ask? Well, who can they ask?

Ms. Barksdale agreed that it is problematic to have shooting that is clearly risky but no mechanisms for law enforcement to prevent harm, especially because we are becoming an increasingly dense county, she said. Mr. Webster said that safety is key when dealing with firearms. You have to know where your rounds are going. There isn't a safety problem in Orange County, according to the data we have received from the Sheriff's Office. But we do need to avoid having someone shot before we are able to react. Ms. Conti also agreed.

Mr. Kirkland referred to the petition that was presented to the Committee at the close of the June Committee meeting. There were over 200 signatures, he said. I know a lot of the people who signed, and I know a lot of people who would have signed. Their starting assumption was that there should not be any ordinance at all. I was of that mind too. However, if you have just one complaint then you have a perceived problem. Safety is the biggest issue to me: making sure that a projectile does not cross a property line. No responsible firearms users are going to let that happen. However, we know that there are people out there who are not responsible. How are we going to "police" that community? What can we get in place to help take care of loose cannons, without undue expense and restrictions to responsible firearms users?

Mr. Tesoro said a certain percentage of people do not act safely: shooters, drivers, construction workers. No matter how many laws we put into place – OSHA, DOT, etc. -- at the end of the day they are not going to act safely. Let's say you pass a law that says you have to have a certain backstop. Some people will still go out and shoot without a backstop. Nothing's changed by your passing that law. There's already a law in place if their bullet hits somebody or something. Mr. Kirkland added that laws are written for law abiding people. Mr. Tesoro said no matter how many laws you put into place there will always be people who act unsafely. Mr. Tilley said the safety issue is a perception problem. We don't have any hard facts that there is a safety problem. But people perceive there is a safety problem because they are hearing gunfire. You hear a guy shooting ten times, you might wonder if he is shooting correctly. Based on the facts, the answer is, "probably." Hunters are sighting their rifles safely. People with concealed carry permits have taken the course and understand safety. But there is a perception of a safety issue, he said.

Dr. Arvik said that there are more armed people today than ever in the history of the United States. There are more people getting carry permits and buying guns, particularly women, because they are scared. They hear guns going off and they think a riot is breaking out. I'm talking about preventive things here. I'm trying to give the Sheriff's Office the ability to go and check on where that shooting is and whether is it OK. If they do not have the authority then they can't make it OK.

Sooner or later, somebody is going to get shot, he said. The danger from people who don't get trained is higher than ever before. We have rules for after the fact, but we don't have rules for before the fact. Anyone who wants a gun can have one, that's in the Constitution. I'm absolutely in agreement with that. How they handle that gun is what gun safety training is for. Can they acquire a gun without gun safety training? Sure they can. The Sheriff's Office can't do anything about a clearly unsafe situation before the damage occurs. Let's give them the tools to do something about it. Guns are noisy, but the higher priority is the perception that they are dangerous. The noise regulations should be independent of the cause of the noise, like someone running a lawnmower. But you can't regulate the noise of a guy with a gun shooting in close proximity to a house? What is wrong with that picture?

What do you want the people in our community to see from us, he asked. A statement that we don't think safety is a big issue? That we are more worried about noise? No, the name of this Committee is the Firearms Safety Committee. I don't want to write a noise ordinance, I want to write a firearms safety ordinance.

What does safety mean? It means not getting hurt by someone using a gun. Ms. Conti isn't worried about the noise from her neighbor; it's an irritant to her, but her worry is about getting shot. Me too. I've got people on both sides of me with their own ranges. I have seen the ranges, I understand the ranges. I know what he is shooting. I can count the rounds. He is shooting safely. But the people with less knowledge than those of us who are responsible gun owners don't know he is safe. What can we do to help the County teach people that what is going on at the ranges is safe? We have to give the Sheriff's Office the training to know what is safe. The deputy I interacted with did not know what was safe, and he was wrong.

Mr. Tilley said the people who are shooting unsafely now will not stop shooting unsafely because of a County ordinance. Dr. Arvik said he understands that, that you can't cure stupidity. But if people want to know what safety is, he said, then we have to offer them the opportunity to get that information. In hunting, you have to take a hunter safety course in order to get a license. If we don't come up with something to address the potential of danger from unsafe firearm use then we will have wasted a lot of time on this Committee.

Mr. Hunnel said the Committee needs to think bigger and longer term. The county is changing, growing denser, and the people are different. Maybe the County can put money in the budget for the Sheriff's Office to conduct firearms safety classes for young people, which is what I had available to me when I was a kid. Or maybe we can do something in the school system to help people understand the safety issues associated with handling firearms. We can do things to address safety that will have benefits over the longer period of time as the county changes.

Mr. Kirkland said he has not seen any county ordinances addressing firearms that pertain to noise. There are some set back and distance limits, but not noise control.

Mr. Kirkland asked how training would fit with an ordinance. We can't tell someone that before he shoots on his own property that he has to have some sort of class. I agree 100% that it is very important to have the training, but that has to be on a voluntary basis. Maybe the Sheriff's Department could offer a class that people would volunteer to take, but I would not make that a requirement in an ordinance. Most people get their training from their daddy or grandpa while shooting on their own property into a berm or a log. Safety is keeping a projectile on the confines of one's property. That can be done through earthen berms or logs or a barricade. That's where I would focus our attention, on the safety associated with keeping the projectile from crossing a property line. Noise might be addressed through a tangible distance between the shooter and others. Distance can be

measured so it is tangible and objective and enforceable, he said. But I think safety is the primary issue. I don't think we can make it so that everybody has to be trained.

Ms. Conti agreed on the goal of keeping the projectile from crossing a property line. But I'm not giving up on addressing noise either, she said. Chatham County has included firearms under its noise ordinance. It is embarrassing for Orange County to be behind this curve. Why can't we do this? We could lift the exemption from the Orange County noise ordinance. The Sheriff's Office has the equipment to measure decibels already. And we also could look at the projectiles too. It's doable. There is a problem with noise <u>and</u> a problem with safety.

The facilitator reflected on what he was hearing. He proposed that at the next meeting the group focus on three problems:

- Noise: Relentless shooting creating gunfire noise that is bothersome to neighbors
- Safety: Shooting on private property that is clearly risky – obviously inconsistent with how a responsible shooter should act -- but since no damage, injury or fatality has occurred there are no law enforcement tools to prevent the likely harm.
- Perceptions: Perceptions that shooting is not safe.

The facilitator also said that based on what he had been hearing in the discussion, the development of an ordinance is only one possible kind of response to these issues that the Committee might recommend. The Committee also could recommend that the County do nothing, or it might advise voluntary steps by people or groups in the community, and/or it might recommend some kinds of training, and/or awareness/education efforts, and/or funding initiatives by the County.

Dr. Arvik asked for an explicit agreement by the Committee that the three problems on the facilitator's flip chart notes exist and will frame the Committee's next steps in problem solving. The group agreed after some discussion, as follows:

- In reply to a question, Mr. Roberts explained that state law allows law enforcement to take action if a projectile enters an occupied structure, but there is nothing that says if a projectile leaves a shooter's property then that is *de facto* a violation. If a projectile crosses a property line and goes into, say, a corn crib, then that is certainly dangerous but it is not illegal under state law, he

said. Officer Orr added that under the hunting laws, law enforcement can only act if there is damage to a person or property.

- Mr. Hunnel said that people are being killed on the highways every day, and there are plenty of safety rules in place. I'm not sure we can address the safety problem, he said. Also, we have heard from resource persons in law enforcement and they have said there is no safety problem. Dr. Arvik replied that the presentations were based on history and not on what might occur in the future. I don't want one of my neighbor's kids to be the one that sparks the fire and leads people to wish we had done something, he said. Mr. Hunnel agreed that he did not want any children hurt. Then let's do something that would reduce the risk, said Dr. Arvik. Then let's not give them driver's licenses until they are 21, said Mr. Hunnel.

- Mr. Tilley said that no ordinance will eliminate the safety risk. People acting unsafely will continue to do so. Dr. Arvik said that we have not decided to write an ordinance. I'm willing to listen to anything anyone has to say, Mr. Tilley replied.

Commissioner McKee then asked to make two points before the Committee heard from observers. First, he explained that County staff and elected officials have been discussing the possibility of the establishment of a fire and police driving training facility. Depending on the outcome of the Committee's discussions, that possibility could be expanded to include police firearms training as well and, even further, the option of opening that possible shooting range to public use. This is only at the discussion stage, he said. Second, regarding education, the County produced a pamphlet on hunter and landowner rights and other important information in the context of a deer dog hunting issue that arose about five years ago. I can't say what the effect of that education campaign was, but maybe we can learn something from that to help us on these three problems.

Comments from Observers

Andy Cagle –After watching the meeting I felt like I had watched a rabbit race. The Committee has come back to where it started. The County should build a relationship with the NC Wildlife Commission and inform the public about the firearms safety classes that already are provided by the Commission each year, to better educate the community. Regarding noise, any ordinance covering gunfire would be unenforceable. There is no way law enforcement can capture the sound of gunfire after they arrive on the scene. They would have to ask the citizen who

had been shooting to recreate the noise so that they could measure it, which they don't have the right to do. The perception problem would be addressed by getting people who are not interested in shooting firearms to attend the safety classes. Regarding safety, a backstop would keep the round on the person's property. I would encourage the Committee to consider the Lenoir County ordinance language, which isn't specific but requires a reasonable backstop.

Michael Joerling –It was nice that the Committee has a lot of different perspectives. I think you all are doing a lot of good work. It's a tough issue: the safety, the noise, and the perceptions of more people in the neighborhoods. There are conflicting interests here, and it will be tough to resolve. But it is important for us as citizens of the county to try to make progress. I appreciate that there will be people who won't pay attention to any solution, but that's true for everything, like Mr. Tesoro said, whether they're driving drunk or working construction. But we keep trying to keep people between the ditches. And I think that's important. If we didn't have any laws then it would be chaos. So we've slowly civilized ourselves. It's a noble effort to continue heading in that direction. And I applaud you for trying.

Ashley DeSena – Mr. Cagle put it well. Recalling the safety figures from the June meeting, I can't figure out where the problem is. I understand that noise is annoying. But considering how little property damage and personal injury has taken place I struggle to understand what the problem is. Above and beyond the people on this Committee, there are a lot of people that think they are one rule away from utopia or perfect safety. That's not a reasonable expectation. I always ask, "at what cost?" Safety and danger are generally perceived, so you can write a rule that makes you feel safer, but it comes at the expense of something. I have a philosophical outlook on this right now. But it sounds like there is still a lot of work to be done.